

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

ALIGN TECHNOLOGY, INC.,

Plaintiff,

v.

**CLEARCORRECT OPERATING, LLC,
CLEARCORRECT HOLDINGS, INC., &
INSTITUT STRAUMANN AG,**

Defendants.

**CLEARCORRECT OPERATING, LLC,
CLEARCORRECT HOLDINGS, INC., &
STRAUMANN USA, LLC,**

Counterclaim-Plaintiffs,

v.

ALIGN TECHNOLOGY, INC.,

Counterclaim-Defendant.

Case No. 6:24-cv-00187-ADA-DTG

JURY TRIAL DEMANDED

PATENT CASE

**DECLARATION OF GERARD A. SALVATORE IN SUPPORT OF DEFENDANTS'
AND COUNTERCLAIM-PLAINTIFFS' OPENING CLAIM CONSTRUCTION BRIEF**

I, Gerard A. Salvatore, hereby declare the following:

1. I am an attorney licensed to practice in the State of New York and Washington D.C., and I am admitted to practice in the U.S. District Court for the Western District of Texas. I am Counsel at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”), counsel for ClearCorrect Operating, LLC, ClearCorrect Holdings, Inc., Institut Straumann AG, and Straumann USA, LLC (collectively, “ClearCorrect”). I provide this declaration in support of Defendants’ and Counterclaim-Plaintiffs’ Opening Claim Construction Brief.

2. Unless otherwise indicated below, the statements in this declaration are based on my personal knowledge and my review of the documents cited herein. If called to testify as a witness, I could and would competently do so under oath.

3. Attached as **Exhibit A** is a true and correct copy of U.S. Patent Application No. 09/169,276 Bates stamped CC_ALGN_00021926-CC_ALGN_00022019.

4. Attached as **Exhibit B** is a true and correct copy of Paper 7, Patent Owner’s Preliminary Response in IPR2017-01829 Bates stamped CC_ALGN_00010150-CC_ALGN_00010215.

5. Attached as **Exhibit C** is a true and correct copy of Paper 10, Institution Decision in IPR2017-01829 Bates stamped CC_ALGN_00008231-CC_ALGN_00008248.

6. Attached as **Exhibit D** is a true and correct copy of an Office Action from the prosecution of U.S. Patent No. 9,326,830 dated November 20, 2012 and Bates stamped CC_ALGN_00020981-CC_ALGN_00020996.

7. Attached as **Exhibit E** is a true and correct copy of Applicant’s Response to the November 20, 2012 Office Action during the prosecution of U.S. Patent No. 9,326,830, which is dated February 20, 2013 and Bates stamped CC_ALGN_00021023-CC_ALGN_00021034.

8. Attached as **Exhibit F** is a true and correct copy of the Declaration of William Harrell, Jr., DMD. in Support of ClearCorrect's Opening Claim Construction Brief.

9. Attached as **Exhibit G** is a true and correct copy of the Declaration of Zixiang Xiong, Ph.D. in Support of ClearCorrect's Opening Claim Construction Brief.

10. Attached as **Exhibit H** is an excerpt of a true and correct copy of the American Heritage College Dictionary (4th Edition) (2004) Bates stamped CC_ALGN_00008129-CC_ALGN_00008131.

11. Attached as **Exhibit I** is an excerpt of a true and correct copy of Mosby's Dental Dictionary (2004) Bates stamped CC_ALGN_00008132-CC_ALGN_00008134.

12. Attached as **Exhibit J** is an excerpt of a true and correct copy of Merriam-Webster's Medical Desk Dictionary (2002) Bates stamped CC_ALGN_00008147-CC_ALGN_00008149.

13. Attached as **Exhibit K** is a true and correct copy of the September 3, 2020 Notice of Allowance, which is part of the file history for U.S. Patent No. 10,791,936, and Bates stamped ALGN00006107-ALGN00006112.

14. Attached as **Exhibit L** is a true and correct copy of an excerpt of communication between 3Shape, Align, and the Court, including the Court's Preliminary Construction in *Align Technology, Inc v. 3Shape A/S*, C.A. No. 20-cv-979 (WDTX) Bates stamped ALGN00020496-ALGN00020507.

15. Attached as **Exhibit M** is an excerpt of a true and correct copy of the transcript from the *Markman* proceeding in *Align Technology, Inc v. 3Shape A/S*, C.A. No. 20-cv-979 (WDTX) Bates stamped CC_ALGN_00007882-CC_ALGN_00007941.

16. Attached as **Exhibit N** is a true and correct copy of 3Shape and Align's joint claim construction summary chart in *Align Technology, Inc v. 3Shape A/S*, C.A. No. 20-cv-979 (WDTX) Bates stamped ALGN00024051-ALGN00024055.

17. Attached as **Exhibit O** is a true and correct copy of Paper 10, Patent Owner's Preliminary Response in IPR2021-01241 Bates stamped CC_ALGN_00012616-CC_ALGN_00012658.

18. Attached as **Exhibit P** is a true and correct copy of the April 8, 2020 Notice of Allowance, which is part of the file history for U.S. Patent No. 10,791,936, and Bates stamped ALGN00005584-ALGN00005591.

19. Attached as **Exhibit Q** is a true and correct copy of an Office Action from the prosecution of U.S. Patent No. 10,791,934 dated July 26, 2019 and Bates stamped CC_ALGN_00016973-CC_ALGN_00017019.

20. Attached as **Exhibit R** is a true and correct copy of an Applicant-Initiated Interview Summary from the prosecution of U.S. Patent No. 10,791,934 dated October 28, 2019 and Bates stamped CC_ALGN_00017357-CC_ALGN_00017358.

21. Attached as **Exhibit S** is a true and correct copy of Applicant's Claim Amendments from the prosecution of U.S. Patent No. 10,791,934 dated October 28, 2019 and Bates stamped CC_ALGN_00017115-CC_ALGN_00017126.

22. Attached as **Exhibit T** is a true and correct copy of the February 14, 2020 Notice of Allowance, which is part of the file history for U.S. Patent No. 10,791,934, and Bates stamped CC_ALGN_00017236-CC_ALGN_00017243.

23. Attached as **Exhibit U** is an excerpt of a true and correct copy of 3Shape's Opening Markman Brief (Dkt. 120) in *Align Technology, Inc v. 3Shape A/S*, C.A. No. 20-cv-979 (WDTX) Bates stamped CC_ALGN_00007730-CC_ALGN_00007778.

24. Attached as **Exhibit V** is an excerpt of a true and correct copy of the January 3, 2024 Claim Construction Order (Dkt. 150) in *Network System Technologies, LLC v. Texas Instruments Incorporated*, C.A. No. 22-cv-00482 (E.D. Tex. Jan. 3, 2024).

* * *

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on October 31, 2024.

/s/ Gerard A. Salvatore

Gerard A. Salvatore